

§217.176

- (ii) The name and type of vessel involved;
- (iii) The vessel's speed during the incident;
- (iv) Description of the incident;
- (v) Water depth;
- (vi) Environmental conditions (*e.g.*, wind speed and direction, sea state, cloud cover, and visibility);
- (vii) Species identification or description of the animal;
- (viii) The fate of the animal; and
- (ix) Photographs or video footage of the animal (if equipment is available).

(4) *Annual reports.* (i) An annual report on marine mammal monitoring and mitigation shall be submitted to NMFS, Office of Protected Resources, and NMFS, Northeast Regional Office (specific contact information to be provided in Letter of Authorization), on August 1 of each year. The annual report shall cover the time period of January 1 through December 31 of each year of activity.

(ii) The annual report shall include data collected for each distinct marine mammal species observed in the project area in the Massachusetts Bay during the period of Port operations and repair/maintenance activities. The annual report shall also include a description of marine mammal behavior, overall numbers of individuals observed, frequency of observation, and any behavioral changes and the context of the changes relative to operation and repair/maintenance activities. Additional information that shall be recorded by Neptune or its contractor during operations and repair/maintenance activities and contained in the reports include: results of empirical source level estimation for thrusters while in use and activities associated with maintenance and repair events, date and time of marine mammal detections (visually or acoustically), weather conditions, species identification, approximate distance from the source, activity of the vessel when a marine mammal is sighted, and whether thrusters were in use and, if so, how many at the time of the sighting.

(5) *Five-year comprehensive report.* (i) Neptune shall submit a draft comprehensive final report to NMFS, Office of Protected Resources, and NMFS,

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Northeast Regional Office (specific contact information to be provided in Letter of Authorization), 180 days prior to the expiration of the regulations. This comprehensive technical report shall provide full documentation of methods, results, and interpretation of all monitoring during the first four and a half years of the LOA.

(ii) Neptune shall submit a revised final comprehensive technical report, including all monitoring results during the entire period of the LOAs, 90 days after the end of the period of effectiveness of the regulations to NMFS, Office of Protected Resources, and NMFS, Northeast Regional Office (specific contact information to be provided in Letter of Authorization).

§217.176 Applications for Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, the U.S. Citizen (as defined by §216.103) conducting the activity identified in §217.170(a) (*i.e.*, Neptune) must apply for and obtain either an initial Letter of Authorization in accordance with §217.177 or a renewal under §217.178.

(b) [Reserved]

§217.177 Letters of Authorization.

(a) A Letter of Authorization, unless suspended or revoked, shall be valid for a period of time not to exceed the period of validity of this subpart.

(b) The Letter of Authorization shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.*, mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the Letter of Authorization shall be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).